

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

| | | |
|-------------------------------|---|--------------------------|
| WALTER J. AVERY, #184038, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CASE NO. 3:06-cv-960-WKW |
| |) | (WO) |
| ELAINE KIRBY, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

ORDER

On November 1, 2006, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. (Doc. # 4.) Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is hereby

ORDERED that the Recommendation of the Magistrate Judge (Doc. # 4) is ADOPTED.

It is further ORDERED that this case be and is hereby DISMISSED without prejudice prior to service of process in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(ii).

An appropriate judgment shall be entered.

DONE this 21st day of November, 2006.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE